

UNITED STATES DISTRICT COURT

FILED

JAN 04 2023

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

Shawndale D. Chilcoat

Plaintiff,

v.

Jeff Grey

Defendant,

3:23 CV 14

Civil Action No. _____

MEMORANDUM ON

ARREST WITHOUT

A WARRANT

JUDGE HELMICK
MAG JUDGE CLAY

COMES NOW THE PLAINTIFF, Shawndale D. Chilcoat, one of the free people of the Territory of Ohio, who respectfully presents and submits this memorandum as evidence and proof of the prevailing and controlling law regarding the matter now before the Court.

ARGUMENTS & STATEMENTS OF LAW

On August 9, 2022, the Federal Court for the Northern District of Ohio, issued a search and seizure warrant, exhibit #1, for the electronics and vehicles of the above-named Plaintiff. On August 10, 2022, Federal Court for the Washington D.C. District, issued a warrant for the arrest of the Plaintiff, exhibit #2, without a wet ink signature of the Magistrate, or the signature of the deputy clerk with the seal. Again, after the arrest of the Plaintiff August 11, 2022, Federal Court for the Northern District of Ohio, issued another warrant, exhibit #3, for the search and seizure of the Plaintiffs home. The Plaintiffs indictment, not signed by the District Attorney or the Jury Foreperson, exhibit #4, was not issued until September 9, 2022, by a Washington D.C. Grand Jury. The Plaintiff was held at the Lucas County Correctional Center, without bail, from August 11, 2022, to August 15, 2022. The sworn affidavits were signed by a FBI Agent, whom does not have a right, to claim a cause for action because he is not sworn under the oath of penalty for perjury. This opens the door to unlawful acts, such as unlaw surveillance, unlawful warrants, unlawful indictments and begs for due process violations. During the arraignment hearing for the Plaintiff on August 11, 2022, the Federal District Court for Northern Ohio, Magistrate ask the Prosecuting Attorney if there was a victim impact statement to which the prosecutor replied "in this case the United States Government is the victim", the Plaintiff was held without bail. The criminal complaints are listed with the following codes:

18 U.S.C Section 1752(a)(1) – Entering and Remaining in a Restricted Building or Grounds.

18 U.S.C Section 1752(a)(2) – Disorderly and Disruptive Conduct a Restricted Building or Grounds.

40 U.S.C Section 5104(e)(2)(B) – Entering and Remaining in the Gallery of Congress,

40 U.S.C Section 5104(e)(2)(D) – Disorderly Conduct on Capital Grounds,

40 U.S.C Section 5104(e)(2)(G) – Parade, Demonstrate, or Picket in any of the Capital Buildings,

18 U.S.C Section 1512(c)(2) – Obstruction or Impeding Any Official Proceeding.

The Plaintiff asserts, the people of Mercer County elect and employ the Mercer County Sheriff to keep them safe from the overreaching arm of the Federal Government. The Sheriff has taken an Oath to uphold Common Law. The Governor, the Attorney General and the Sheriffs are the executives of the State. The Sheriff being the third highest executive authority in the State, cannot subvert his authority to a lower level of authority such as the FBI. The people cannot accept this kind of neglect and it is the Plaintiffs duty to make sure this does not ever happen again. The FBI did not have a lawful warrant, and this the Plaintiff believes, is the reason the Defendant was not at the Plaintiffs residence at the time of the invasion and also why the Plaintiff was not taken to the Mercer County Sheriffs Office after the arrest.

According to eyewitnesses, the FBI rummaged through the Plaintiffs home most of the day on August 11, 2022, the time being around 6:40 a.m.- 4:30-5:30 p.m., and the Sheriff nor any of his deputies were in attendance with them.

On November 1, 2022, the Plaintiff scheduled a meeting to get an explanation as to why the Defendant allowed the warrants and why he allowed the FBI to enter Mercer County. The meeting was scheduled for November 2, 2022, immediately the Defendant explained to the Plaintiff that their conversation was being recorded and if she spoke of the events on August 11, 2022, he would be required to share the audio with the FBI, and that that he only knows what “they printed in the paper”. The Plaintiff did not speak of the events that occurred on August 11, 2022, but the Plaintiff now challenges that statement.

The Defendant allowed the unlawful arrest warrant and search and seizure warrants, before or after the offense. The Defendant stated on November 2, 2022, he only knew what “they printed in the paper”. Either way the warrants were unlawful, and the Defendant did nothing before or after to stop the assault, even though he had the power to do so. The Plaintiff feels it is her duty to stop the Defendant before it happens again to another one of the Mercer County People.

The affidavit must be signed by a victim or an eyewitness, under the penalty of perjury; an agent cannot RE PRESENT a corporation under oath of penalty of perjury. **“Title 28 USC 3002 Section 15”**– States That THE UNITED STATES is a CORPORATION and Not a Government” HNN – Higgins News Network. Government cannot subvert the Common Law (**title 18 subsection 2381-2384**), executive power is limited and guided by the law of the land or due process of law. Suits at Common Law is process. The Plaintiff is a woman and not subject to suits in law with a corporation, the Plaintiff is not subject to admiralty law.

Federal District Court for the Northern District of Ohio, Magistrate could not of had the, what should have been the originating arrest warrant in his hands before issuing the his first search and seize warrant on August 9, 2022, because the Federal Court for the Washington D.C. District, did not issue the arrest warrant, which was also taken from the same FBI agent and not sworn under oath of penalty of perjury, until the day after on August 10, 2022.

The Plaintiff was not indicted before the unlawful arrest and unlawful search and seizure of her home and belongings but was allegedly indicted 29 days later on September 9, 2022; this is hard to tell because the alleged indictment wasn't signed by a prosecuting attorney or by a foreperson, which is an example of how unlawful warrants lead to unlawful indictments and unlawful prosecutions.

The Mercer County Sheriff's duty is to enforce the law. The County Sheriff and the U.S. Marshal are not in office to serve government servants they are there to serve the People by guarding against government abuse. They are to make sure that the accused receive Due Process. If the County Sheriff and the U.S. Marshal do not understand Due Process, they are to forthwith learn or resign. The County Sheriff and the U.S. Marshal are to make sure that no warrant is executed without a sworn affidavit and a wet ink signature of a judge without which it is no warrant and cannot be executed. The County Sheriff and the U.S. Marshal are to receive no prisoners that have not been indicted by a Common Law Grand Jury.

DUE PROCESS: "No person shall be deprived of life, liberty, or property without 'due process of law' V Amendment. A similar provision exists in all the state constitutions; the phrases 'due course of law' and the 'law of the land' are sometimes used; but, all three of these phrases have the same meaning; and, that applies conformity with the ancient and customary laws of the English people or laws indicated by parliament..." *Davidson v. New Orleans* 96 U.S. 97, 24, L Ed 616.

"*Due course of law*" is a phrase synonymous with "*due process of law*" or '*law of the land*' and means law in its regular course of administration through courts of justice." *Kansas Pac. Ry. Co. v. Dunmeyer* 19 KAN 542.

JUSTICE: "In the most extensive sense of the word, it differs little from virtue for it includes within itself the whole circle of virtues; justice, being in itself a part of virtue, is confined to things simply good or evil." *Bouvier's*.

AT LAW: "This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity [under statutes]." *Blacks 4th*.

COURT OF LAW: "...a court proceeding according to the course of the common law and governed by its rules and principles as contrasted with a 'court of equity' [statutory court]." *Blacks 4th*.

"Law in its regular course of administration through courts of justice is due process." *Leeper v. Texas*, 139, U.S. 462, II SUP CT. 577, 35 L ED 225. "It is not a little remarkable that... this provision [due process] has been in the Constitution for the United States' 5th Amendment as a restraint upon authority." *Lent v. Tillson* 140, U.S. 316, 10 SUP. Ct. 324, 33 L. ED 722.

"Due process of law and the equal protection of the laws are secured if the laws operate on all alike and do not subject the individual to an arbitrary exercise of the powers of government." *Duncan v. Missouri*, 152, U.S. 382, 14 SUP. CT. 570, 38 L. ED. 485.

"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law; but is wholly void and ineffective for any purpose since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no

acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed, insofar as a statute runs counter to the fundamental law of the land, the Constitution, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." *Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); Norton v. Shelby County, 118 U.S. 425 (1886)*.

All rights are protected by due process which is the restraint upon government. It is the duty of the Sheriff & U.S. Marshal to make sure due process is met before incarceration; and, to recognize when it is not. All village, town and city courts which proceed according to statutes are not common law Constitutional courts. Any State or Federal Court proceeding upon statutes instead of Law are acting under the color of law; and, all officers in such courts are acting in concert and are guilty of felony conspiracy. It is the duty of the Constitutional Law Enforcement Officer, a/k/a Sheriff or U.S. Marshal, to arrest the officers acting under color of law; and, to seek an indictment. Failure to do so is felony rescue.

The Plaintiff was not brought before the Magistrate ordering her arrest, whom did not sign the arrest warrant, on August 11, 2022, the Plaintiff was brought before the Magistrate who ordered the search and seizure warrants. The Plaintiff was not brought before the Magistrate who ordered the arrest until August 18, 2022, via Zoom, 7 days after the arrest.

The Plaintiff was denied bail and the warrant stated nothing about bail.

"Another obvious requirement of a warrant that would make it void on its face is if it is not signed by a magistrate or justice of the peace. It has become a practice in some areas to have warrants rubber stamped with the Judges name. This stamping being done by some clerk or administrative employee. This blatantly unlawful practice has been adopted for convenience's sake. which is the most common reason or excuse government uses to transcend constitutional limitations. Such limitations were designed to make government follow certain established procedures and thus make things difficult in order to deprive a citizen of his liberty or property. A rubber-stamped warrant is invalid on its face as it is not signed by any judicial officer. The authorization for a warrant requires not only judicial authority but is to be done by one who is learned in the law to determine if probable cause exists to issue the warrant." *A Treatise on Arrest and False Imprisonment, pg. 47.*

To summarize, the following are the basic requisites needed to make a warrant valid:

1. A warrant is to be issued by a judicial officer and signed by him.
2. It must state the facts that show the matter to be within the jurisdiction of the judicial officer issuing it.
3. It cannot be based upon belief or suspicion, but upon probable cause.
4. The warrant is to list a complaint which is to state the offense committed and the facts that constitute a crime.
5. A warrant is to be supported by a signed affidavit made under oath by the person making the charge.
6. It must truly name the person to be arrested or describe him sufficiently to identify him.
7. The warrant must also command that the defendant be arrested and brought before the nearest available magistrate. The officer is bound to know if under the law the warrant is defective, and not fair on its face, and he is liable as a trespasser if it does not appear on its face

to be a lawful warrant. His ignorance is no excuse. *A Treatise on Arrest and False Imprisonment, pg. 47.*

The Plaintiff was arrested without an indictment and all of the accusations were US Codes. Sheriffs **MUST** prevent the execution of any warrants served upon person or property by Federal, State, County, City, Town or Village code enforcement officers that do not meet the two requirements above. If there is no indictment the Sheriff can only hold the person for 48 hours after which they **must** be released. If the arrest with or without an indictment is challenged with a Habeas Corpus and the Party holding the person does not answer within three days, the Sheriff **MUST** release the person. THIS IS DUE PROCESS. **Rarely should a person be arrested for a crime before receiving an indictment,** Sheriffs should use their common sense before permitting Federal and State arrests in his County without an indictment. All code violation arrests must show constitutional authority for the legislation of such codes. Any code violation that violates the unalienable right(s) of a person is null and void.

Amendment V No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, ... nor be deprived of life, liberty, or property, without due process of law; **ALL ARREST WARRANTS MUST:**

- 1.) have a "wet-ink signature of a judge"; and,
- 2.) have a "Sworn Affidavit" attached by a "witness" or "injured party". If there is no injured party, there is no crime. **The State can never be the injured party.**

THE REAL LAW: "The common law is the real law, the Supreme Law of the land, the code, rules, regulations, policy and statutes are "not the law," – *Self v. Rhay, 61 Wn (2d) 261.* Legislated statutes enforced upon the people in the name of law are a fraud. They have no authority and are without mercy. Justice without mercy is Godless and therefore, repugnant to our United States Constitution. Lawmakers were given authority by the people to legislate codes, rules, regulations, and statutes which are policies, procedures, and "law" to control the behavior of bureaucrats, elected and appointed officials, municipalities, and agencies. However, they were never given authority to control the behavior of the people as we read in the US Supreme court decision, "All laws, rules and practices which are repugnant to the Constitution are null and void." *Marbury -v-Madison, 5th US (2 Cranch) 137, 174, 176, (1803).* *County Sheriffs Handbook, pg. 20-21.*

No warrant, including a federal warrant is to be served without going through the Sheriff's office. Any warrant without a sworn affidavit and a judge's wet ink signature (**not a stamp**) is not an executable warrant. It is the Sheriff's duty to make sure that all warrants, federal or state, served within their county passes constitutional scrutiny; IRS warrants rarely pass constitutional scrutiny. For example, the IRS has a form 4490 called Proof of Claim for Internal Revenue Taxes, which is an affidavit form that must be filled out and sworn to, without which the warrant with the wet ink signature is not executable. *County Sheriffs Handbook" pg. 11.*

Search and seizure warrants force the accused to testify against themselves. "The benefits of the IV Amendment are exclusively for a witness compelled to testify against himself in a criminal case, and he cannot set them up on behalf of any other person or individual, or of a corporation of which he is an officer or employee. *Hale v. Henkel, 201 U.S. 43, sec. 5 (1906).*

"The question each jurist must ask themselves is: "Is there an injured party?" There is a Common Law principle which states that for there to be a crime, there must first be a victim (*corpus delecti*); the state cannot be the injured party. In the absence of a victim, there can be no crime. This is what the grand jurist must discover." *Thomas Jefferson, letter to John Cartwright; June 5, 1824; "The Thomas Jefferson Papers," Library of Congress.*

Under US Codes 42 and 18, "when you are detained—without your consent—for violating a statute, you have just been kidnapped; and if the Judge sets a bail, he just set a ransom; and when the prosecutor confirms the charges, they are all part of a conspiracy, and "YOU" can put them in jail and sue them for damages. It's all about Consent and Jurisdiction". *Common Law Handbook, Pg. 12.*

The Defendants duties include the execution of all warrants, if he was not informed, he should have immediately demanded the Plaintiff to be released and taken the appropriate measures to right the wrong. The Sheriff is the third highest level of authority in the State.

"The Defendant could have and should have stopped the unlawful arrest and search and seizure before or after the offence and he had the authority to do both. "What separates the Sheriff from the police is the fact that police are code enforcement officers that answer to a political servant who has the power to fire. And if the political servant is lawless, so are the police! Whereas the Sheriffs' are Law enforcement officers, that answers to We the People directly at the ballot box. Therefore, the Sheriff will be as Lawful as his knowledge of the same. There are only three ways a Sheriff can be removed from office

- (1) the People can vote him/her out
- (2) impeachment and
- (3) indictment by the Grand Jury.

There are four things the Sheriff needs in order to arrest a lawless judge or any lawless elected or appointed servant with impunity and fearlessness. They are:

- (1) Knowledge of the Law
- (2) Knowledge that no agency or elected or appointed servant can remove a Sheriff from office, nor can a Sheriff be arrested unless (s)he violates the Common Law such as stealing, killing, etc...,
- (3) the People standing behind him and
- (4) access to the Grand Jury to get an indictment. The Sheriffs should not be going to the county prosecutor for an indictment as all too often, they are gatekeepers for the lawless." *County Sheriffs Handbook, Pg. 6.*

The County Sheriff also has a duty to enforce the Common Law which is written by God in the hearts of men. There are two Common Law Principles that guide us in knowing the Common Law; in order for there to be a crime there must be an injured party and the government in general cannot be the injured party.

William Blackstone - a legal maxim – Every right when withheld must have a remedy, and every injury its proper redress. *In the third volume of his Commentaries, page 23,* Blackstone states two cases in which a remedy is afforded by mere operation of law. "In all other cases," he says, "it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded." And afterwards, *page 109 of the same volume,* he says, "I am next to

consider such injuries as are cognizable by the Courts of common law. And herein I shall for the present only remark that all possible injuries whatsoever that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals are, for that very reason, within the cognizance of the common law courts of justice, for it is a settled and invariable principle in the laws of England that 'every right, when withheld, must have a remedy, and every injury its proper redress.'"- **5 U.S. 137, *Marbury v. Madison.*** "The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." - ***Marbury v. Madison, 5 U.S. 137 (1803); County Sheriffs Handbook, pg. 31.***

The Plaintiff was taken directly to the FBI in Toledo Ohio for questioning, which was refused; then the FBI took a forced DNA sample as well as forced photographing and forced fingerprinting. She was then taken to the USM for more forced photographing and fingerprinting and then placed in a cell.

"To take an arrested person to a jail to be detained and fingerprinted is a violation of his rights. It is proof the officer had no intent to bring the accused directly to a judge. In ***Anderson's Treatise on the Law of Sheriffs.*** the subject of an officer's duty after arrest was examined with this conclusion: It is the undoubtedly right on the part of a prisoner, on being arrested by a public officer or private citizen, and unquestionably a corresponding duty on the part of the one making the arrest, to take the prisoner before a court or magistrate for a hearing or examination and this must be done without unnecessary delay. The object of this right and corresponding duty is that the prisoner may be examined, held, or dealt with as the law directs and the facts of the case require. ••• It is highly improper and an invasion of the lawful rights of the prisoner to take him to any other place than to a proper court or magistrate." ***Walter H. Anderson A Treatise on the Law of Sheriffs, Coroners and Constables, Vol. I, § 179-80 (1941).***

The due process argument in false imprisonment cases will nullify the statutes, rules and ordinances that are contrary to the common law rule on arrest. No legislative act can abrogate what is the law of the land, otherwise there is no such thing as due process. Government has encroached upon the citizen's liberty by ignoring due process. The common law allowed arrests without warrant only for known felonies and breaches of the peace. This is a required condition under "due process of law" in order to arrest someone. Thus, it has been said that:

Arrest without warrant, where a warrant is required, is not due process of law; and arbitrary or despotic power no man possesses under our system of government. ***Muscoe v. Commonwealth, 86 Va. 443, 10 S.E. 534, 536 (1890).***

The word " suspicion" is found more frequently in statutes and codes to authorize arrests that the common law prohibited. In a case where a man was arrested for belief he possessed stolen goods, a felony charge, the arrest was held to have been unlawful. However, the police sought to justify the arrest upon the fact that, although there may have been no reasonable cause to believe that the man was guilty of a felony, yet he was in fact guilty of the misdemeanor of carrying a concealed weapon. They claimed that, although the weapon was concealed, the offense was committed in their presence, and it was suspected that he did have a concealed pistol, which was found after the arrest. The Supreme Court of New York held that their arguments were groundless:

An officer cannot arrest a man for one cause, and when that cause is exploded [defeated] justify for another. Such a doctrine would be an incentive to the loosest practices on the part of police officer, and

a dangerous extension of their sufficiently great powers. They cannot be too firmly told that there is no such lawful thing as an arrest without an apparent or disclosed cause, to be justified thereafter by whatever may turn up. • • • You cannot arrest a man merely because, if all were known, he would be arrestable. You must arrest him for some specified cause, and you must justify for that cause. *Snead v. Bonnoil*, 63 N.Y. Supp. 553, 555, 97 N.Y. State Rep. (1900).

No One Is Bound To Obey An Unconstitutional Law And No Courts Are Bound To Enforce It:

"The general rule is that a unconstitutional statute, whether Federal or State, though having the form and name of law as in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the enactment 42 and not merrily from the date of the decision so braining it. An unconstitutional law in legal contemplation is as inoperative as if it never had been passed. Such a statute lives a question that is purports to settle just as it would be had the statute not ever been enacted. No repeal of an enactment is necessary, since an unconstitutional law is void. The general principles follows that it imposes no duty, converse no rights, creates no office, bestows no power of authority on anyone, affords no protection and justifies no acts performed under it. A contract which rests on an unconstitutional statute creates no obligation to be impaired by subsequent legislation. No one is bound to obey an unconstitutional law. No courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid. A void act cannot be legally inconsistent with a valid one and an unconstitutional law cannot operate to supersede an existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal, or in any way effect an existing one, if a repealing statute is unconstitutional, the statute which it attempts to repeal, remains in full force and effect and where a statute in which it attempts to repeal remains in full force and effect and where a clause repealing a prior law is inserted in the act, which act is unconstitutional and void, the provision of the repeal of the prior law will usually fall with it and will not be permitted to operate as repealing such prior law. The general principle stated above applied to the constitution as well as the laws of the several states insofar as they are repugnant to the constitution and laws of the United States." 16Am Jur 2d., Sec. 256; *County Sheriff's Handbook* Pg. 24 & 25.

The Plaintiff was arrested, at gun point, had her belongings seized by an inferior court not of common law, by way of alleged "criminal" US Codes. "Only the people can judge. Our US Constitution only authorizes "common law courts" a/k/a "courts of record". A court of record removes the power of the Judge to make a ruling. His/her role is that of the "administrator of the court". The final decision maker is the "tribunal" who is either the "sovereign plaintiff" or a "jury." Remember, the servant cannot rule over the master, Can the clay rule over the potter?" *County Sheriff's Handbook Pg. 39*.

Due Process requires a lawful warrant before a person's property can be searched or property seizure; many people have been abused with unlawful warrants.

"Sheriff and Warrants Amendment IV: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *County Sheriff's Handbook, Pg. 11*.

The Plaintiff was not taken to the Sheriff's Office, making it convenient for the Defendant to not stop the unlawful arrest as he would have been required to do so. "Before the Sheriff is to accept any prisoner,

he is to make sure that due process has been exercised. If a court sends a prisoner sentenced to be incarcerated and there was no indictment and petit jury (trial by 12 jurists) before the sentencing, the prisoner is now a victim who was not given due process. The Sheriff cannot accept that prisoner. Unfortunately, because of ignorance, County Jails are filled with such prisoners." *County Sheriffs Handbook*" Pg. 12.

"Sheriffs took an oath to uphold and defend the Constitution, from enemies foreign and domestic. In the history of our world, it is government tyranny that has violated the freedoms granted to us by our Creator more than any other. And it is the duty of the sheriff to protect their counties from those that would take away our freedoms, both foreign AND domestic – whether it is a terrorist from Yemen or a bureaucrat from Washington, DC." *County Sheriffs Handbook*", Pg 82.

"It is the sworn duty of the Sheriff, being the chief conservator of the peace within his territorial jurisdiction and chief executive and administrative officer of the county to know when the Peoples' unalienable rights are being violated and to protect them by preventing these acts of lawlessness. Let them get a Lawful warrant if they can." *County Sheriffs Handbook*", Pg. 45.

The Defendant has allowed the waters of maritime/admiralty law to come upon the land of Mercer County, Ohio. "The Sheriff cannot extend admiralty jurisdiction into the land and subvert the law, that's not the way our founders set up our form of Government" *Constitution Article III*.

"As independent sovereignty, it is State's province and duty to forbid interference by another state or foreign power with status of its own citizens." *Roberts v Roberts (1947) 81 CA2d 871, 185 P2d 381.* [Black's Law Dictionary, 4th Ed., p 1300] *Redding v Los Angeles, 81 CA.2d.*

"The Sheriff is the chief executive and administrative officer of a county, being chosen by popular election. His principal duties are in aid of the criminal courts and civil courts of record, such as serving process, summoning juries, executing judgments, holding judicial sales and the like. He is also the chief conservator of 13 the peace within his territorial jurisdiction." *Harston v. Langston, Tex.Civ. App., 292 S.W. 648, 650.* When used in statutes, the term may include a deputy sheriff. *Lanier v. Town of Greenville, 174 N.C. 311, 93 S.E. 850, 853.*

The Supreme Law Is The Basis Of All Law All Fiction Of Law Is Null And Void: Nisi prius courts rely on statutes, which is fiction of law, which seeks to control the behavior of the sovereign people, who are under common law, not statutes, and who ordained and established the law. Therefore, legislators cannot legislate the behavior of the people. "No provision of the Constitution is designed to be without effect, Anything that is in conflict is null and void of law, Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the basis of all law and for any law to come in conflict would be null and void of law, it would bear no power to enforce, in would bear no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law." *16Am Jur 2d.* "The common law is the real law, the Supreme Law of the land, the code, rules, regulations, policy and statutes are not the law"; *Self v. Rhay, 61 Wn (2d) 261.*

Law of the Land Law: "That which is laid down, ordained, or established". *Koenig v. Flynn, 258 N.Y. 292, 179 N. E. 705.* *County Sheriffs Handbook, Pg. 15*

Congress Cannot Alter Rights. "On the other hand, it is clear that Congress cannot by authorization or ratification give the slightest effect to a state law or constitution which is in conflict with the Constitution of the United States." **16Am Jur 2d, Sec. 258.**

"The Law of the Land consists of:

- (1) the Constitution, written by We the People, under the authority of God, to empower, control and restrict government servants.
- (2) Common Law which is written by God in the hearts of men; and,
- (3) Constitutional Statutes which are written by legislators. Any statute or code outside of the aforesaid, and there are many, is null and void and that is why we need a Constitutional Law protector who knows the difference. If a Sheriff must depend upon a lawyer to determine the Law, it's no different than giving (s)he your badge and the responsibility for your oath. That is not honoring your oath. Lawyers already run our government and have the People ratcheted down in unconstitutional codes, statutes and illegal warrants; therein is the problem in a nutshell and the reason we need Sheriffs who know the Law.

County Sheriffs Handbook, pg. 4.

Lawyers rejected the counsel of God" - Luke 7:30; "The lawyers, said unto Jesus, Master, thus saying thou reproaches us also. And Jesus said, Woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers... Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered. Luke 11:45-46, 52

In order for statutes to become Law, the legislators must first be given authority by We the People which is found under Article I. Section 8 which is restrained by Article I. Section 9 and the Bill of Rights. This is where the Sheriff's attention should be. If Congress writes statutes outside of Article I. Section 8 or statutes that violate Section 9 or the Bill of Rights the following "General Rule" of the United States Supreme Court is to be applied, and herein is the Power of the County Sheriff. **County Sheriffs Handbook, pg. 5.**

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed, insofar as a statute runs counter to the fundamental law of the land, (the Constitution) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886)" County Sheriffs Handbook, Pg. 4 and 5.

According to the constitution, enacting and changing laws for a state falls upon the legislative branch of government, and the branch cannot delegate the power to any other. The "Code Commissioners" or "Revising Committee" may be composed of some members of legislature, but it is also composed of lawyers, judges and private persons. It thus has been noted that parentheses revisers have no legislative

authority and are therefore powerless to lessen or expand the letter or meaning of law. *State v. Maurer, 164 SW. 551, 552, 255 Mo. 152 (1914)*.

The federal courts only have jurisdiction and matters involving “offense against the United States,” and “nothing can be an offense against the United States unless it is made so by congressional act pursuant to the US constitution there is no other source from which Congress can get authority to make law, including common law.” Thus, it has been said that “there is no federal common law.” but the better way of stating this is to say, “there is no common law offenses or crimes against the United States” in other words the common law is not a source for criminal jurisdiction as it is in the states.

“There is no federal common law. There are no offences against the United States, save those declared to be such by Congress. — Only those offenses are to be proceeded against by information or indictable in the federal courts which are specifically made so by acts of Congress since the common law crime of itself has no existence in the federal jurisdiction. *United States v. Grossman, 1 fed.2d 941, 950, 951 (1924)*.

The United States courts are governed in the administration of the criminal law by the rules of common law. *Howard v. U.S., 75 fed. 986 (1896)*. Thus the common law is not a source of power, but is the means or instrument through which it is exercised. And civil matters where general common law rights of an individual are concerned, the federal courts are to apply the common law in the state in which the controversy originated. *Wheaton v. Peters, 8 Peters 33US 591, 658 1834; Erie R. Co. v. Tompkins, 304 U.S. 64, 78 (1937)*.

The United States code was not enacted as a statute, nor can it be construed as such. It is only a *prima facie statement of the statute law. Murrell v. Western Union Tel. Co., 160 2D 787, 788 (1947)*

“Sheriffs took an oath to uphold and defend the Constitution, from enemies foreign AND domestic. In the history of our world, it is government tyranny that has violated the freedoms granted to us by our Creator more than any other. And it is the duty of the sheriff to protect their counties from those that would take away our freedoms, both foreign AND domestic – whether it is a terrorist from Yemen or a bureaucrat from Washington, DC”. *County Sheriffs Handbook, pg. 82*.

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